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where it appears from the pleadings and proof in the original suit that the presence of another party is necessary in order that the defence to the complainant's demand may be complete, or a controversy between the defendants may be properly adjudicated. In the case in judgment, the cross-bill did not controvert complainant's debt. It introduced new and independent matter, existing when the original bill was filed, and added a new party who was a stranger to the objects of the original suit.

2. TRUSTS AND TRUSTEES—*Offering land as a whole and in parcels—Apportionment of proceeds—Rights of creditors.* However equally lands may be divided amongst coparceners in the first instance, in a few years they frequently become very unequal in value, and if one of the coparceners becomes the owner of two shares, and conveys them to a trustee to secure debts, and the two shares are offered for sale first separately and then as a whole, and the price obtained when sold as a whole is accepted, if it becomes necessary thereafter to sever the values of the two shares, it should be done in the same proportion that the prices of the shares bore to each other when sold separately. It is error to divide the proceeds of the sale equally merely because the shares were supposed to be equal in the first instance.

3. APPEAL AND ERROR—*Amount in controversy.* If an assignment of error affects one person only whose debt is less than $500, the appeal will be dismissed as to him as improvidently awarded.

PERKINS FOR, &C., v. SEIGFRIED'S ADM'R.—Decided at Staunton, September 21, 1899.—*Harrison*, J. *Keith*, P., dissenting:

1. WILLS—*Acknowledgement of debt—Churches—Legacy—Statute of limitations—Unincorporated associations—Chancery jurisdiction.* A testator by a codicil to his will declares, "I herein mention a debt of $600 I owe the Presbyterian church of Charlottesville, Va., and I wish it duly paid, without interest, out of my estate, to that church after my sister's death." The codicil is dated November 7, 1884. The sister died in 1896, and a suit was brought by one member of the church, suing on behalf of himself and four hundred other members, in 1898. There was no proof of the existence of such a debt except the statement of the codicil, and no evidence was offered against it.

Held:

1. Though a church cannot take as legatee under a will, this is not a legacy but a debt, and the codicil alone is sufficient proof of its existence.

2. The right of action did not accrue till the death of the sister, and hence is not barred by the statute of limitations.

3. Though churches have no corporate existence in this State, they are recognized as legal organizations capable of holding property, and may sue to recover what they may lawfully hold.

4. The suit was properly brought in equity by one member of the congregation suing on behalf of himself and the other members.

CHEATHAM'S ADM'R AND ANOTHER v. AISTROP'S ADM'R AND OTHERS. Decided at Staunton, September 21, 1899.—*Cardwell*, J:

1. APPEAL AND ERROR—*Amount in controversy—Joint interest in a judgment.* Where a judgment for $500 or more is assigned to two parties, to be divided be-

tween them, the sum in controversy in a suit to enforce the judgment is the amount of the judgment, though the interest of one of the parties may be less than $500. Neither of the assignees has a claim founded on an independent contract which each has the right to enforce without regard to the other. In such case this court has jurisdiction of an appeal from a decree affecting the judgment.

2. STATUTE OF LIMITATIONS—*Removal from the State.* The removal of a judgment debtor from the State is of itself an obstruction to a suit to enforce the judgment, and the statute of limitations does not run against the judgment while the debtor remains out of the State. *Ficklin* v. *Carrington*, 31 Gratt. 219, approved.

3. STATUTE OF LIMITATIONS — *Presumption of payment — Laches.* The presumption of payment of a debt does not, as a matter of law, arise within the statutory period of limitation, though the lapse of time may be relied on in connection with other circumstances, as evidence of payment, but the evidence in the case in judgment does not show that the debt has been paid, nor raise a presumption of its payment.

DILLARD v. DILLARD AND OTHERS.—Decided at Staunton, September 21, 1899.—*Riely*, J:

1. CHANCERY PLEADING—*Multifariousness.* No fixed and invariable rule can be laid down by which to determine whether or not a bill is multifarious. If the matters contained in a bill are not wholly distinct and separate, and it is more convenient to litigate and dispose of them in one suit than in two or more, and this can be done without injustice to any one, the objection of multifariousness will not prevail.

2. RES JUDICATA.—In order that the defence of *res judicata* may prevail, the judgment or decree in the first suit must have been rendered between the same parties, as in the second, or their privies, and the matters in controversy must have been the same in the former suit as in the latter, and have been determined on the merits. When these requisites concur the adjudication in the first suit constitutes a bar not only to the points actually decided, but to every point which properly belonged to the particular matter in litigation, and which the parties might have brought forward at the time. All matters offered and received, or which might have been offered to sustain the claim in the prior suit, and all matters of defence which were, or might have been introduced, under the issue to defeat such claim, are concluded by the judgment or decree in the prior suit.

3. WILLS— *Meaning of "money"— What included—Trust funds—Case in judgment.* What is meant by the word "money" as used in a will must depend upon the particular will, and the context in which the word is used. In the absence of anything in the context to explain or define the sense in which it is used it embraces cash, bank notes and money in bank, but does not include choses in action, or securities. It may embrace, however, debts and securities, the whole personal estate and even the proceeds of realty. In the case in judgment the gift was of *money* in the hands of a trustee, and this includes bonds of persons to whom the trust fund has been loaned. This is the ordinary acceptation of the word when so used.

4. TRUSTS AND TRUSTEES—*Discretionary or personal trust—Effect of death of one of the trustees.* If an uncontrollable discretion be vested in two or more trustees